

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ROBERT ROY GOFF,

No. 03:09-CV-237-ST

Plaintiff,

ORDER

v.

BRIAN BELLEQUE, Superintendent
of Oregon State Penitentiary,

Defendant.

Thomas J. Hester
Office of the Federal Public Defender
101 SW Main Street, Suite 1700
Portland, OR 97204

Attorney for Petitioner

Jacqueline Sadker Kamins

Andrew D. Hallman
Oregon Department of Justice
1162 Court Street, NE
Salem, OR 97301

Attorneys for Respondent

HERNANDEZ, District Judge:

Magistrate Judge Janice Stewart issued a Findings and Recommendation (# 49) on May 16, 2011, in which she recommends that the Court deny the Petition for Writ of Habeas Corpus (#1), issue a Certificate of Appealability only with respect to the Miranda claim (Ground Three), and deny a Certificate of Appealability with respect to the other claims because petitioner has not made a substantial showing of the denial of a constitutional right. Petitioner Goff timely filed objections to the Findings and Recommendation. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1); Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

I have carefully considered Petitioner Goff's objections and conclude that the objections do not provide a basis to modify the Findings and Recommendation. I have also reviewed the pertinent portions of the record *de novo* and find no error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court ADOPTS Magistrate Judge Stewart's Findings and Recommendation (#49)

and, therefore, the Petition for Writ of Habeas Corpus (#1) is denied. A Certificate of Appealability is issued only with respect to the Miranda claim (petitioner's Ground Three) because petitioner has not made a substantial showing of the denial of a constitutional right with respect to his other grounds for relief.

IT IS SO ORDERED.

DATED this 11th day of July, 2011.

/s/ Marco A. Hernandez
MARCO HERNANDEZ
United States District Judge